

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
AXION POWER INTERNATIONAL, INC., WILLIAM :
AND TRACEY AHEARN, h/w, SALLY FONNER and :
JAMES SMITH, M.D., :
:

Plaintiffs,

: 07 CV 11493 (RWS) (AJP)

- against -

: **NOTICE OF MOTION**
:

MERCATUS & PARTNERS, LTD., MF GLOBAL, INC, :
MF GLOBAL, UK, LTD., CARI MASI, a/k/a CARY :
MASI, BNP PARIBAS SECURITIES SERVICES, :
BANCA MB S.P.A., DWIGHT PARSCALE, STEPHANO :
CEVALO, CONTINENTAL STOCK TRANSFER AND :
TRUST COMPANY, PENSON FINANCIAL SERVICES, :
INC., and BROWN BROTHERS HARRIMAN & CO. :
:

Defendants.

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PLEASE TAKE NOTICE that, upon the annexed Declaration of Matthew D. Parrott in Support of the Motion to Dismiss the Complaint, dated March 14, 2008, and the accompanying Memorandum of Law, Defendants MF Global, UK, Ltd. and MF Global, Inc (collectively, the "MFG Defendants"), by and through their counsel, Katten Muchin Rosenman LLP, will move this Court, before the Honorable Judge Robert W. Sweet, in Courtroom 18C of the United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York 10003, on a date to be determined, for an order dismissing with prejudice the claims asserted by Plaintiffs in the Complaint against the MFG Defendants pursuant to Fed. R. Civ. P. 12(b)(6) and 9(b) based on Plaintiffs failure to state a legally cognizable claim and failure to plead fraud with particularity, and granting such other and further relief as the Court deems just and proper;

PLEASE TAKE FURTHER NOTICE that Plaintiffs' opposition papers, if any, shall be served on or before April 3, 2008.

Dated: March 17, 2008

KATTEN MUCHIN ROSENMAN LLP

By: 

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*Attorneys for Defendant MF Global, Inc
and MF Global, UK, Ltd.*